SITE DEVELOPMENT PERMIT

FILE NO.	**H13-040**
LOCATION OF PROPERTY	**South side of East Brokaw Road between North 1st Street and Bering Drive (APNs 237-16-071, -072, -073)**
ZONING DISTRICT	**TEC Transit Employment Center**
GENERAL PLAN DESIGNATION	**Transit Employment Center**
PROPOSED USE	**Site Development Permit to allow the demolition of an existing card room, removal of four Ordinance-sized trees, and the construction of ten seven-story office buildings totaling 2.025 million square feet with surface parking and two levels of below ground parking on a 31.09 gross acre site**
ENVIRONMENTAL STATUS	**Addendum to the North San Jose EIR (Resolution No. 72768) and Envision San Jose 2040 General Plan EIR (Resolution No. 76041)**
OWNER/APPLICANT	**Peery-Arrillaga 2450 Watson Court Palo Alto, California 94303**

FACTS

The Director of Planning, Building and Code Enforcement finds that the following are the relevant facts regarding this proposed project:

1. The subject site has a land use designation of Transit Employment Center on the Envision San José 2040 General Plan Land Use/Transportation Diagram.
2. The subject site is located within the North San Jose Area Development Policy Core Area.
3. The General Plan identifies North San Jose as a key growth area for the City, and within the Core Area allows more intensive development for "driving industry" business with mid-rise (4-12 story) industrial office buildings.
4. The project site is located in the TEC Transit Employment Center Zoning District. A Conventional Rezoning from the IP Industrial Park, LI Light Industrial, CG Commercial General, R-2 Two-Family Residence, and IP(PD) Planned Development Zoning Districts to the TEC Transit Employment Center Zoning District on the subject site was approved by City Council Ordinance No. 29345 on November 19, 2013.
5. This Site Development Permit is to allow the demolition of an existing card room, removal of four Ordinance-sized trees, and the construction of ten seven-story office buildings totaling 2.025 million square feet with surface parking and two levels of below ground parking.

6. The easternmost ten acres of the subject site is currently developed with a card room (Bay 101) and the remainder of the site is undeveloped.
7. Per Section 20.80.440 of the San Jose Municipal Code, demolition of structures may be included as part of a development permit.
8. Request for tree removals pursuant to Chapter 13.32 may be included as part of an application for development permit.
9. The project includes the removal of four ordinance-sized trees and 174 non-ordinance-sized trees.
10. Under the provisions of Table 20-140 of the San Jose Municipal Code, a total of 5,739 parking spaces are required. A total of 6,960 vehicle parking spaces are provided.
11. The site is surrounded by industrial park development to the northeast across Bering Drive, U.S. 101 to the south, a hotel and commercial uses to the east, and industrial park uses and a hotel to the northwest across Brokaw Road.
12. Pursuant to the State Guidelines for implementation of the California Environmental Quality Act (CEQA), an Addendum to the North San Jose EIR and Envision San Jose 2040 General Plan EIR was prepared by the Director of Planning, Building, and Code Enforcement for the subject Site Development Permit.
13. The site is wholly within the Santa Clara Valley Habitat Conservation Plan area.
14. The project is subject to land cover fees and burrowing owl fees.

FINDINGS

After investigation and hearing held pursuant to Chapter 13.32 of the San Jose Municipal Code, the Director of Planning finds:

1. That the trees affected are of a size, type and condition, and are in such a location in such surroundings, that their removal would not significantly frustrate the purposes of this chapter as set forth in Section 13.32.010.
2. That the location of the trees with respect to a proposed improvement unreasonably restricts the economic development of the parcel in question.

Further, the Director of Planning concludes and finds, based on the analysis of the above facts, that under the provisions of Section 20.80.440(A) of the San José Municipal Code, no demolition permit or removal permit shall be issued unless and until a Development Permit which specifically approves such demolition or removal has been issued and has become effective pursuant to the provisions of Chapter 20.100.

The Director of Planning has considered the following in evaluating the proposed demolition:

1. The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;
2. The failure to approve the permit would jeopardize public health, safety or welfare;
3. The approval of the permit should facilitate a project which is compatible with the surrounding neighborhood;

4. The approval of the permit should maintain the supply of existing housing stock in the City of San José;
5. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;
6. Rehabilitation or reuse of the existing building would not be feasible; and
7. The demolition, removal or relocation of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.

Finally, the Director of Planning, Building, and Code Enforcement concludes and finds, based upon an analysis of the above facts that:

1. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious, in that:
    a. The proposed buildings are consistent with the height and setback requirements of the TEC Transit Employment Center Zoning District.
    b. All of the proposed buildings share a common design theme in terms of setbacks, separations, massing, and materials.
2. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood, in that:
    a. Consistent with the North San Jose Urban Design Guidelines, the proposed building is a contemporary design that supports the vision for North San Jose as an innovative, urban place.
    b. A majority of the proposed parking is located underground in a two-level parking garage. Perimeter parking visible to adjacent development is minimal and behind landscaped setbacks.
3. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties, in that:
    a. An Addendum was granted for this project under the provisions of Title 21 of the San José Municipal Code implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment.
    b. The project establishes a Mitigation Monitoring or Reporting Program to address adverse effects to air quality, biological resources, cultural resources, and hazards and hazardous materials.
4. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood, in that:
    a. Utilities, trash facilities, and rooftop equipment are screened from off-site view.
5. Traffic access, pedestrian access and parking are adequate, in that:

a. An area wide traffic impact analysis was prepared as part of the North San Jose Area Development Policy, adopted June 2005. Traffic impacts were identified and resulted in an area wide traffic impact fees. This project is covered under the North San Jose EIR.

b. The project conforms to the vehicle and bicycle parking requirements set forth in the Zoning Ordinance.

c. In accordance to Section 20.90.220(A) of the San Jose Municipal Code and the project's mitigation monitoring and reporting program, the project will implement a transportation demand management (TDM) program that includes measures such as implementing a carpool program, providing preferential parking for carpool and alternatively-fueled vehicles, and commute programs with a designated Employee Transportation Coordinator.

6. The application is either consistent with the General Plan or counterbalancing considerations justify the inconsistency, in that:

   a. The proposed project is consistent with the site's Transit Employment Center designation.

   b. Consistent with General Land Use Policy 1.6, this employee-intensive industrial use is located within walking distance to local and regional transportation infrastructure, including bus lines and light rail stations.

Finally, based upon the above-stated findings and subject to the Conditions of Approval set forth below, the Director of Planning approves, pursuant to Part 5 of Chapter 20.100 (Site Development Permits) of the San José Municipal Code, the subject Site Development Permit.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:

   a. Acceptance of the Permit by the applicant; and

   b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.

2. **Permit Expiration.** This Site Development Permit shall automatically expire four years from and after the date of issuance hereof by said Director, if within such time period, the proposed use of this site or construction has not commenced. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.

3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the "Building Code" shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San Jose Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.

4. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
5. **Conformance to Plans.** Except as noted under Condition #6, development of the site shall conform to the approved Site Development Permit plans entitled, "North First & Brokaw Corporate Campus," dated October 16, 2013, last revised on December 2, 2013 on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04), with the exception of any subsequently approved changes.
6. **Required Plan Revisions.** Within 30 days of approval of the project, the permittee shall submit revised plans addressing each of the items below to the Planning Project Manager.
    a. *Setbacks.* Buildings, structures, and parking are to be located outside of front setback areas above and below grade on Brokaw Road and Bering Drive. The minimum front setback for buildings and structures is 15 feet, while the minimum front setback for parking is 25 feet.
    b. *Details***.** Provide details and/or elevations for the stairs exiting the below grade parking garage at the intersection of North 1st Street and Brokaw Road.
    c. *Planting Schedule*. The Sequoiadendron giganteaan (Giant Sequoia) indicated on the plans shall be replaced with a better suited species.
7. **Demolition.** This permit allows the demolition of structures as noted on the approved Plans.
8. **Construction Hours.** Construction and grading activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday. This includes the staging of equipment and construction personnel. The construction hours shall be printed on all plans for the project used to construct the project. Interior construction activities that do not generate any audible noise impacts are allowed on Saturdays between 9:00 a.m. and 5:00 p.m.
9. **Fire Clearance for Issuing Permits.** The permittee will be required to comply with all applicable fire and building codes and standards relating to fire and panic safety as verified by the Fire Department during the Building Permit process.
10. **Hazardous Materials.** Any hazardous materials regulated by Chapter 17.68 of the San José Municipal Code on the site must be used and stored within approved buildings and/or within areas specified on the approved plan set, if any, in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San José Fire Prevention Bureau.

11. **Industrial Waste.** If industrial waste, as defined by Section 15.12 of the San Jose Municipal Code, is to be discharged into the sanitary sewer system, a clearance shall be obtained from the Water Pollution Control Plant, Industrial Waste Section.

12. **Nuisance**. This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.

13. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.

14. **DRAFT Environmental Mitigation Measures - Conformance to Mitigation Monitoring & Reporting Program.** This project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program (MMRP) approved for this development. The following mitigation or avoidance measures are organized by impact category and identify (responsibility for monitoring compliance).

    a. Air Quality (Director of Planning).

        i. The project will implement the following on-site measures, with a goal of a 15 percent reduction in daily vehicle trips:

            1) Provide physical improvements, such as sidewalk improvements, landscaping and bicycle parking that would act as incentives for pedestrian and bicycle modes of travel.

            2) Bicycle parking is required at one space per 4,000 s.f. of building area, 80 percent short-term and 20 percent long-term. Long-term parking is provided (162 in lockers) and short-term parking is provided (326 in racks).

            3) Provide on-site showers and lockers for employees bicycling or walking to work.

            4) Provide secure and conveniently located bicycle parking and storage for workers.

            5) Showers will be provided in conformance with the Zoning Ordinance.

            6) Utilize reflective (or high albedo) and emissive roofs and light colored construction materials to increase the reflectivity of roads, driveways, and other paved surfaces, and include shade trees near buildings to directly shield them from the sun's rays and reduce local air temperature and cooling energy demand.

                (a) The project will incorporate a high albedo roofing material.

                (b) Other building materials such as metal panels will be light colored.

                (c) High performance glazing will be incorporated.

                (d) Shade trees will be incorporated near the building on the southern exposures where possible.

        ii. The following TDM measures will be implemented by the building owner and coordinated with future tenants occupying the project development:

            1) Van pool, low emission and carpool parking at entry to each building,

            2) Electric charging stations,

            3) Bicycle parking long-term and short-term (162 long term, 326 short term, 488 total) with repair station

4) Pedestrian access and connections that incorporate large sidewalks and direct connections to light rail and nearby amenities
5) Showers, changing rooms and clothes lockers,
6) Passenger loading zones in front of each building,
7) Motorcycle parking,
8) Transportation and commute kiosk(s),
9) Shuttle stop locations at various locations throughout the project,
10) Commute Programs with Employee Transportation Coordinator,
11) VTA Ecopasses,
12) Carpool and van pool ride matching,
13) Exercise facility/gym,
14) Telecommuting, and
15) Mobile Services

iii. Temporary Air Quality impacts may result from demolition of the existing structure(s), excavation of soil, and other construction activities on the subject site. Implementation of the standard project conditions listed below, consistent with current BAAQMD recommendations for large projects, will reduce the temporary construction impacts to a less than significant level.

BAAQMD Basic Construction Mitigation Measures Recommended for All Proposed Projects (Table 8-1)

1) All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
2) All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
3) All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
4) All vehicle speeds on unpaved roads shall be limited to 15 mph.
5) All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
6) Replant vegetation in disturbed areas as quickly as possible.
7) Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.

8) All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.

9) Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

iv. BAAQMD Additional Construction Mitigation Measures Recommended for Projects with Construction Emissions Above the Threshold (Table 8-2)

1) All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.

2) All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.

3) Wind breaks (e.g., trees, fences) shall be installed on the windward side(s) of actively disturbed areas of construction. Wind breaks should have at maximum 50 percent air porosity.

4) Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.

5) The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.

6) All trucks and equipment, including their tires, shall be washed off prior to leaving the site.

7) Site accesses to a distance of 100 feet from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel.

8) Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent.

9) Minimizing the idling time of diesel powered construction equipment to two minutes.

10) The project shall develop a plan demonstrating that off-road equipment (more than 50 horsepower) to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) would achieve a project wide fleet-average 20 percent NOx reduction and 45 percent PM reduction compared to the most recent ARB fleet average. Acceptable options for reducing emissions include the use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options as such become available.

11) Use low VOC (i.e., ROG) coatings beyond the local requirements (i.e., Regulation 8, Rule 3: Architectural Coatings).

12) Require that all construction equipment, diesel trucks, and generators be equipped with Best Available Control Technology for emission reductions of NOx and PM.

13) Requiring all contractors use equipment that meets CARB's most recent certification standard for off-road heavy duty diesel engines.

b. Biological Resources (Director of Planning).

i. The project shall obtain a tree removal permit for any ordinance-size trees to be removed, and shall for all removed trees incorporate the City's standard tree replacement ratios in landscape plans and planting of street trees along the site's street frontage.

ii. The project will implement the following tree protection measures to avoid impacts to trees adjacent to the project site:

1) Tree protection zones should be established and maintained throughout the entire length of the project. Fencing for the protection zones should be 6 foot tall metal chain link type supported my 2 inch metal poles pounded into the ground by no less than 2 feet. The support poles should be spaced no more than 10 feet apart on center.

2) The location for the protection fencing should be as close to the dripline as possible still allowing room for construction to safely continue.

3) Signs should be placed on fencing signifying "Tree Protection Zone - Keep Out".

4) No materials or equipment should be stored or cleaned inside the tree protection zones. Areas outside the fencing but still beneath the dripline of protected trees, where foot traffic is expected to be heavy, should be mulched with 4 to 6 inches of chipper chips.

5) Trenching for irrigation, electrical, drainage or any other reason should be hand dug when beneath the driplines of protected trees. Hand digging and carefully laying pipes below or beside protected roots will dramatically reduce root loss of desired trees thus reducing trauma to the entire tree.

6) Trenches should be backfilled as soon as possible with native material and compacted to near its original level. Trenches that must be left exposed for a period of time should also be covered with layers of burlap or straw wattle and kept moist. Plywood over the top of the trench will also help protect exposed roots below.

7) Excavation along the project perimeter where trees are present should be monitored by the project arborist to avoid damage to trees adjacent to the site and incorporate any additional necessary measures to ensure their survival.

iii. Nesting birds protected by the Migratory Bird Treaty Act and other regulations may be impacted by construction during the bird breeding season from February through August. Ideally, the clearing of vegetation and the initiation of construction would be done in the non-breeding season from September through January. If these activities cannot be done in the non-breeding season, a qualified biologist shall perform pre-construction breeding bird surveys within 14 days of the onset of construction or clearing of vegetation. The survey area should encompass the

project area and the areas within a 100 foot buffer. If active nests or behavior indicative of nests are encountered, those areas plus a 50 foot buffer for small songbirds and 250-foot buffer for larger birds (e.g. raptors) designated by the biologist in coordination with CA Dept. of Fish and Wildlife shall be avoided until the nests have been vacated. If the work areas are left unattended for more than one week following the initial surveys, additional surveys shall be completed.

c. Cultural Resources (Director of Planning).

i. A program of subsurface testing by mechanical means shall be implemented. Most archaeological resources in the region are relatively near the surface, within two meters or so. However, as excavations are proposed reaching ~25 feet below the current surface, the program of subsurface reconnaissance shall reach at least three meters or 10 feet below surface, and probably four meters/13 feet on the more elevated portions of the northeast and western parcels. The surface of the parcel occupied by the Bay 101 Casino is lower than the adjacent project parcel, so research to three meters/10 feet might be sufficient. In both areas, depth and areal intensity of subsurface testing should be graduated to the locations of proposed construction impacts. The goal of this geoarchaeological research should be to find and define first the "original" surface upon which the fills and casino development have been placed, and then to find and define deeper strata representing older surfaces upon which archaeological deposits are or could be located.

Different methods of subsurface research would be appropriate for different portions of the Project Area:

1) On the two vacant parcels, the fastest and most cost effective method for subsurface reconnaissance would be to use a backhoe to dig either a larger number of small trenches arrayed around the properties, or a smaller number of larger/longer trenches to gain a representative sample into and below the previous natural surface. Where apparent, the strata from surface should be carefully examined, described, illustrated, and characterized.

2) On the Bay 101 Casino parcel, as long as the facility is in operation and the parking lots in use, a program of smaller samples would be better than trenching through the pavement. A program of two-inch geoprobes would be best for subsurface reconnaissance at this location, as this technique causes less disruption and the test locations can be immediately backfilled and the pavement restored. The cored samples should also be carefully examined, described, and characterized so it is possible to link potentially sensitive strata across the site.

Upon completion of the subsurface mechanical testing, and not less than 30 days prior to approval of a grading permit, the project proponent shall have a professional archaeologist prepare a Historic Properties Treatment Plan (HPTP) to the satisfaction of the Director of Planning. An HPTP is a document that provides detailed, specific information and procedures for the management/treatment of both known and unknown cultural resources that may be affected by a project. The HPTP shall provide a background context for the parcel/resources and appropriate guidelines for considering and protecting cultural resources during any future development or modification of the site. The plan shall include resource protection and monitoring plans for cultural resources as well as methods and procedures to deal with inadvertent cultural discoveries that may be exposed during subsurface construction.

d. Hazard and Hazardous Materials (Director of Planning and the Environmental Services Department).

i. Prior to approval of building permits for the project, additional soil sampling is required to characterize the soil quality at each of the former structures on the site to establish the lateral and vertical extent of soil contamination on the site near Bering Drive. Construction of the below grade parking garage will require dewatering. A Site Management Plan shall be prepared for review and approval by the Director of Planning, Building, and Code Enforcement to ensure that excavation and dewatering during construction of the project will not expose construction workers or the environment to contaminants in soil and groundwater on the site. The Site Management Plan will include provisions for monitoring exposure to construction workers and delineate procedures to be undertaken in the event that contamination is identified above action levels and identify emergency procedures and responsible personnel. Construction workers shall receive hazardous materials training in accordance with federal and State regulations.

ii. Depending on the extent of soil impact, the selected remedial activities for the site require oversight by an appropriate regulatory agency, such as DTSC or the Santa Clara County Department of Environmental Health.

iii. Dewatering required for the project will be completed in accordance with the SMP prepared for the project site. The short-term discharge of water produced from construction dewatering to the sanitary sewer from the site should be acceptable, under permit by the City of San José, Environmental Service Department, Watershed Protection Division. The maximum duration of a short-term permit to discharge to the sanitary sewer is one year. Any proposed discharge to the storm drain system will require approval from the San Francisco Bay RWQCB.

iv. Upon completion of construction activities, a qualified environmental professional will prepare a report documenting compliance with the Site Management Plan; this report will be submitted to the City and oversight agency, if any.

e. Hydrology and Water Quality (Director of Planning).

i. Comply with the City of San José Special Flood Hazard Area Regulations.

ii. Obtain an Elevation Certificate (FEMA Form 81-31) for the proposed structure, based on construction drawings and a Flood Proofing Certificate (FEMA Form 81-65), prior to issuance of building permits and occupancy permits.

iii. Elevate building support utility systems such as HVAC, electrical, plumbing, air conditioning equipment, including ductwork, and other service facilities above the base flood elevation or otherwise protected from flood damage.

15. **Cultural Resources Standard Project Conditions.** In the event any significant cultural materials are encountered, all construction within a radius of 50-feet radius of the find would be halted, the Director of Planning, Building and Code Enforcement would be notified, and a professional archaeologist will examine the find and make appropriate recommendations regarding the significance of the find and make appropriate recommendations regarding the significance of the find and the appropriate mitigation. Recommendations could include collection, recordation, and analysis of any significant cultural materials.

a. If human remains are discovered, the Santa Clara County Coroner will be notified. The Coroner would determine whether or not the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he would notify the Native American Heritage Commission, would attempt to identify "most likely" descendants of the deceased.

b. If the Director of Planning, Building and Code Enforcement finds that the archaeological find is not a significant resource, work would resume only after the submittal of a preliminary archaeological report and after provisions for reburial and ongoing monitoring are accepted.

c. A final report will be prepared by the project archaeologist when a find is determined to be a significant archaeological resource, and/or when Native American remains are found on the site. The final report will include background information on the completed work, a description and list of identified resources, the disposition and curation of these resources, and testing, and other recovered information, and conclusions.

16. **Geologic and Soils Standard Project Conditions.** The project will implement the following standard project conditions to ensure that site soils and geologic conditions result in less than significant geologic hazard impacts:

a. A design-level geotechnical investigation report addressing the potential hazard of liquefaction and expansive soils must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation shall be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation, and shall provide detailed geotechnical recommendations for the design and construction of the project.

b. The geotechnical investigation shall be reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance for the project.

c. Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.

d. Implement standard grading and best management practices to prevent substantial erosion and siltation during development of the site.

e. The project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, therefore a haul route permit is required prior to issuance of a grading permit.

f. The project shall be designed and constructed in conformance with the 2010 California Building Code guidelines for Seismic Zone 4 to avoid or minimize potential damage from seismic shaking and seismic-related hazards on the site.

17. **Hydrology and Water Quality Standard Project Conditions.**

a. Compliance with the NPDES General Construction Activity Stormwater Permit administered by the Regional Water Quality Control Board. Prior to future construction or grading for project with land disturbance of one acre or more, applicants shall be required to file a "Notice of Intent" (NOI) to comply with the General Permit and prepare

a Stormwater Pollution Prevention Plan (SWPPP) that addresses measures that would be included in the project to minimize and control construction and post-construction runoff. Copies of the SWPPP shall be submitted to the City of San José Department of Public Works. The following measures typically are included in a SWPPP:

i. Preclude non-stormwater discharges to the stormwater system.

ii. Incorporate effective, site-specific Best Management Practices for erosion and sediment control during the construction and post-construction periods.

iii. Cover soil, equipment, and supplies that could contribute pollution prior to rainfall events or monitor runoff.

iv. Perform monitoring of discharges to the stormwater system.

b. The proposed project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges. Post-construction treatment control measures shall meet the numeric sizing design criteria specified in City Policy 6-29.

i. The project's Stormwater Control Plan and numeric sizing calculations will be in conformance with City Policy 6-29.

ii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.

18. **Noise Standard Project Conditions.** The project will implement the following measures, as documented in a noise logistics plan, to reduce construction noise levels as low as practical:

a. Utilize 'quiet' models of air compressors and other stationary noise sources where technology exists.

b. Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment;

c. Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from adjacent land uses;

d. Locate staging areas and construction material areas as far away as possible from adjacent land uses;

e. Prohibit all unnecessary idling of internal combustion engines;

f. If impact pile driving is proposed, multiple-pile drivers shall be considered to expedite construction. Although noise levels generated by multiple pile drivers would be higher than the noise generated by a single pile driver, the total duration of pile driving activities would be reduced;

g. If impact pile driving is proposed, temporary noise control blanket barriers shall shroud pile drivers or be erected in a manner to shield the adjacent land uses. Such noise control blanket barriers can be rented and quickly erected;

h. If impact pile driving is proposed, foundation pile holes shall be pre-drilled to minimize the number of impacts required to seat the pile. Pre-drilling foundation pile holes is a standard construction noise control technique. Pre-drilling reduces the number of blows required to seat the pile. Notify all adjacent land uses of the construction schedule in writing;

i. Designate a "disturbance coordinator" who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the case of the noise complaint (e.g. starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented. The telephone number for the disturbance coordinator at the construction site will be posted and included in the notice sent to neighbors regarding the construction schedule.

19. **Traffic Standard Project Conditions.**

a. The proposed project shall comply with the City's North San José Area Development Policy and Deficiency Plan Fee.

b. According to the North San Jose Area Development Policy, "high intensity development proposals (that include parking in excess of 105% of the City requirement) will need allocation based upon the City's Zoning Code parking ratio for the proposed use (e.g. for industrial park development, 350 square feet of development capacity will need to be allocated to the property for each additional parking space in excess of 105% of the minimum requirement). Allocations for high intensity uses will be subject to all of the provisions of this Policy, including payment of the Traffic Impact Fee. The current project does not exceed the minimum parking requirement by 5% and would not be subject to this fee.

c. Consistent with the NSJ FPEIR, the proposed project is required to pay a traffic impact fee (TIF). The 2013 fee is $12.69 through June 30th and increases to $13.54 per square foot and is subject to an annual escalation of 3.3 percent. This fee must be paid prior to the issuance of a building permit or in accordance with the schedule specified in a development agreement.

d. The City adopted a Short-Term Incentive Program of the NSJADP on December 17, 2013 to reduce the TIF to $2 per square foot for industrial development larger than one million square feet. This incentive is available for projects obtaining Planning and Building approval from December 17, 2013 to December 31, 2014.

20. **Utilities and Services Standard Project Conditions.**

a. Ensure storage area is large enough to accommodate both garbage and recycling containers. The minimum enclosure size to accommodate two three cubic yard bins is 11.5 feet by eight feet with an additional eight feet in front for the concrete service pad.

b. Ensure enclosure has enough capacity, or frequency of collection for garbage and recycling, to accommodate site operations.

c. Ensure proper hauler access to solid waste containers. Validate width of driveway and vehicle turning radius. Enclosure areas must be accessible by garbage/recycling trucks by providing minimum 22 foot wide driveways and a 50 foot turning radius for collection vehicles unless other waste management practices will be implemented.

d. Ensure that project demolition debris is properly recycled or disposed. Details on recycling construction waste are available through the Construction and Demolition Diversion Deposit (CDDD) incentive program. Information is available at: http://www.syrecycles.org/construction-demolition/cddd.asp.

e. The proposed commercial development must follow the requirements for recycling container space. When 30 percent or more of the original floor space is added to an existing building, provision must be made for the storage and collection of recyclables. Project plans must show the placement of recycling containers, for example, within the details of the solid waste enclosures.

f. It is required that scrap construction and demolition debris be recycled instead of disposing of it in a landfill. An infrastructure exists within San Jose to accommodate such recycling efforts. Integrated Waste Management staff can provide assistance on how to recycle construction and demolition debris from the project, including information on where to conveniently recycle the material. Additional information can be found at http://www.sjrecycles.org/construction-demolition/cddd.asp or by contacting the Commercial Solid Waste Program at (408) 535-8550.

g. The City will be enhancing elements of the solid waste management program for commercial and industrial developments, which include the recycling of food waste and related materials starting July 2012. Such program enhancements have been addressed to the City Council for approval in March 2009. Developments will need to provide adequate space for the collection of garbage, recycling and food waste material. *Revised wording is still in progress; this condition will be updated in January.*

21. **Preconstruction Survey for Burrowing Owls (as required by the Habitat Conservation Plan).** Prior to any ground disturbance related to covered activities, a qualified biologist will conduct preconstruction surveys in all suitable habitat areas as identified during habitat surveys. The purpose of the preconstruction surveys is to document the presence or absence of burrowing owls on the project site, particularly in areas within 250 feet of construction activity. To maximize the likelihood of detecting owls, the preconstruction survey will last a minimum of three hours. The survey will begin 1 hour before sunrise and continue until 2 hours after sunrise (3 hours total) or begin 2 hours before sunset and continue until 1 hour after sunset. Additional time may be required for large project sites. A minimum of two surveys will be conducted (if owls are detected on the first survey, a second survey is not needed). All owls observed will be counted and their location will be mapped.

    Surveys will conclude no more than two (2) calendar days prior to construction. Therefore, the project proponent must begin surveys no more than four (4) days prior to construction (two days of surveying plus up to two days between surveys and construction). To avoid last minute changes in schedule or contracting that may occur if burrowing owls are found, the project proponent may also conduct a preliminary survey up to 14 days before construction. This preliminary survey may count as the first of the two required surveys as long as the second survey concludes no more than two calendar days in advance of construction.

    a. If evidence of western burrowing owls is found during the breeding season (February 1–August 31), the project proponent will avoid all nest sites that could be disturbed by project construction during the remainder of the breeding season or while the nest is

occupied by adults or young (occupation includes individuals or family groups foraging on or near the site following fledging). Avoidance will include establishment of a 250-foot non-disturbance buffer zone around nests. Construction may occur outside of the 250-foot non-disturbance buffer zone. Construction may occur inside of the 250-foot non-disturbance buffer during the breeding season if:

i. The nest is not disturbed,

ii. The project proponent develops an avoidance, minimization, and monitoring plan that will be reviewed by the Implementing Entity and the Wildlife Agencies prior to project construction based on the following criteria.

iii. The Implementing Entity and the Wildlife Agencies approve of the avoidance and minimization plan project by the project applicant.

iv. A qualified biologist monitors the owls for at least three (3) days prior to construction to determine baseline nesting and foraging behavior (i.e., behavior without construction).

v. The same qualified biologist monitors the owls during construction and finds no change in owl nesting and foraging behavior in response to construction activities.

vi. If there is any change in owl nesting and foraging behavior as a result of construction activities, these activities will cease within the 250-foot buffer. Construction cannot resume within the 250-foot buffer until the adults and juveniles from the occupied burrows have moved out of the project site.

vii. If monitoring indicates that the nest is abandoned prior to the end of nesting season and the burrow is no longer in use by owls, the non-disturbance buffer zone may be removed. The biologist will excavate the burrow to prevent reoccupation after receiving approval form the Wildlife Agencies.

b. During the non-breeding season (September 1–January 31), the project proponent will establish a 250-foot non-disturbance buffer around occupied burrows as determined by a qualified biologist. Construction activities outside of this 250-foot buffer are allowed. Construction activities within the non-disturbance buffer are allowed if the following criteria are met in order to prevent owls from abandoning important overwintering sites.

i. A qualified biologist monitors the owls for at least 3 days prior to construction to determine baseline foraging behavior (i.e., behavior without construction).

ii. The same qualified biologist monitors the owls during construction and finds no change in owl foraging behavior in response to construction activities.

iii. If there is any change in owl nesting and foraging behavior as a result of construction activities, these activities will cease within the 250-foot buffer. If the owls are gone for at least one week, the project proponent may request approval from the Implementing Entity that a qualified biologist excavate usable burrows to prevent owls from re-occupying the site. After all usable burrows are excavated, the buffer zone will be removed and construction may continue.

c. Monitoring must continue as described above for the non-breeding season as long as the burrow remains active.

   i. A qualified biologist will monitor the project site consistent with the requirements of the breeding and non-breeding season avoidance measures listed above to ensure that buffers are enforced and owls are not disturbed. The biological monitor will also conduct training of construction personnel on the avoidance procedures, buffer zones, and protocols in the event that a burrowing owl flies into an active construction zone. It should be noted that all elements of Condition 15 of the SCVHP shall be followed. Passive relocation of burrowing owls would not be allowed until positive growth trend described in Section 5.4.6 of the SCVHP is achieved. An application for exemption to this prohibition can be requested and will be reviewed by the Implementing Entity on a case by case basis.

22. **Habitat Conservation Plan Fees.** Prior to the issuance of grading permits, the applicant shall be required to pay all applicable fees, as determined by the City, to address burrowing owl habitat loss, and land cover.

23. **Public Works Clearance for Building Permit(s) or Map Approval:** The applicant will be required to have satisfied the following Public Works conditions prior to the issuance of Building permits or the approval of the Parcel Map by the Director of Public Works, whichever occurs first. **The applicant is advised to apply for any necessary Public Works permits prior to applying for Building permits.**

    a. *Construction Agreement:* The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.

    b. *Traffic/Transportation:*

       i. An area wide traffic impact analysis was prepared as part of the North San Jose Area Development Policy, adopted June 2005. Traffic impacts were identified and resulted in an area wide traffic impact fees. This project is covered under the North San Jose EIR.

       ii. Consistent with the North San Jose EIR, this project is required to pay a traffic impact fee. On December 17, 2013 the City Council adopted a resolution to amend the North San Jose Area Development Policy to:

           1) Increase the total square footage available for the incentive program to 4 million square feet;

           2) Reduce the Traffic Impact Fee to $2.00/sf for any build-to-suit Office/R&D campus of over 1 million square feet that obtains planning and building approvals by December 31, 2014;

           3) Require new development that receives the $2.00/sf incentive, as a condition of its Development Agreement, to participate in the Business Cooperation Program;

4) Allow projects outside of the boundary area, that contribute traffic trips on roads within the Policy area that are consistent with the impacts identified in the NSJ EIR, to mitigate by payment of the Traffic Impact Fee following the preparation of a traffic impact analysis; and

5) Provide additional flexibility with respect to the Urban Design Guidelines for campus style development within the Policy boundaries.

iii. The North San Jose Area Development Policy traffic impact fee is calculated to be $4,050,700.

iv. A traffic operational analysis is required for this project and a workscope was provided to Hexagon Consultants Inc. on December 9, 2013. The project may be subject to the recommendations based on the operational analysis. Any requirements as a result of the analysis will be provided through a forthcoming traffic memo.

c. *Grading/Geology:*

i. A grading permit is required prior to the issuance of a Public Works Clearance.

ii. All on-site storm drainage conveyance facilities shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2010 California Plumbing Code or submit a stamped and signed alternate engineered design for Public Works discretionary approval and should be designed to convey a 10 year storm event.

iii. If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.

iv. Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.

v. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.

d. *Shoring:*

i. Shoring plans will be required for review and approval as part of the Grading Permit for this project.

ii. If tie-backs are proposed as part of the shoring operation, a separate Revocable Encroachment Permit must be obtained by the Developer or Contractor and must provide security, in the form of a CD or Letter of Credit, in the amount of $100,000.

e. *Stormwater Runoff Pollution Control Measures***:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs), which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.

i. The project's Stormwater Control Plan and numeric sizing calculations have been reviewed and additional information is required prior to this project being in conformance with City Policy 6-29.

ii. Additional information for the stormwater treatment measures shall be submitted with the grading plan for review and approval.

iii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.

f. *Stormwater Peak Flow Control Measures:* The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).

g. *Flood: Zone: AO depth 1' and X*

For portion of the project (Building G) within Floodzone AO depth 1':

i. Elevate the lowest floor more than one (1) feet above the highest existing adjacent grade to the proposed structure or floodproof to the same elevation. For insurance rating purposes, the building's floodproofed design elevation must be at least one foot above the base flood elevation to receive rating credit.

ii. An Elevation Certificate (FEMA Form 81-31) for each proposed structure, based on construction drawings, is required prior to issuance of a building permit. Consequently, an Elevation Certificate for each built structure, based on finished construction is required prior to issuance of an occupancy permit.

iii. If the structure is to be floodproofed, a Floodproofing Certificate (FEMA Form 81-65) for each structure, floodproofing details, and if applicable, a Flood Emergency Operation Plan and an Inspection & Maintenance Plan are required prior to the issuance of a Public Works Clearance.

iv. Building support utility systems such as HVAC, electrical, plumbing, air conditioning equipment, including ductwork, and other service facilities must be elevated above the base flood elevation or protected from flood damage.

h. *Street Vacation:* The City is currently processing a vacation of Devcon Ct. and the vacation is required in order to accomplish the land use plan as shown. The street vacation process requires further discretionary approval by the City Council and the project will be subject to this process prior to Public Works Clearance.

i. *Sewage Fees:* In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable. The total sewage fees are estimated to be $1,041,047.

j. *Street Improvements:*

i. The existing traffic signal at E. Brokaw Road and Bering Drive will require modifications to accommodate the projected pedestrian and vehicular traffic generated by this project. As a result of the signal modifications the project is required to do the following:

1) Dedicate along the project's frontage (from Bering Drive to project entrance) approximately thirty (30) feet of right-of-way along Bering Drive and additional seven feet of right of way along Brokaw Road (from Bering Drive to the off-ramp).

2) Construct two west bound left turn movements on Brokaw Road to Bering Drive.

3) Construct two north bound left turn movements on Brokaw Road to Bering Drive.

4) Construct improvements to provide for a dedicated right turn pocket on east bound Brokaw Road to Bering Drive.

5) Widen Bering Drive to accommodate the two left turn movements from westbound Brokaw Road, the two left turn movements from northbound Bering Drive and the right turn movement from eastbound Brokaw Road.

6) Remove existing median island along Bering Dr.

ii. Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.

iii. Close any unused driveway cut(s) along Brokaw Rd. and at the cul-de-sac of Crane Ct.

iv. Close future vacated street along Devcon Ct. and remove existing City facilities.

v. This project may require upgrades to the existing handicap ramps per current City standards.

vi. Construct standard 12-foot sidewalk along Brokaw Rd.

vii. Construct standard 10-foot sidewalk along Bering Dr.

viii. Remove and replace existing broken or uplifted curb, gutter along project frontage.

ix. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.

k. *Sanitary:* Based on the sanitary sewer flow information provided by the applicant, staff has determined that there is insufficient capacity in the existing 15" sanitary line located on East Brokaw Road. Staff has analyzed the capacity of the existing sanitary sewer with the additional flow from proposed project and found that segments of the existing sanitary sewer will experience surcharging and will not meet the City's acceptable limits.

Due to the intensity of the development, the project has two options to address the project's proposed sanitary sewer flows.

i. Re-route sanitary sewer flows to Devcon Drive and upsize the existing 10" sanitary line from Bering Drive to Zanker Road, or

ii. Send flows to Brokaw Road and the project will pay their fair share contribution which will be comprised of their sanitary sewer area fees.

l. *Storm:* Based on the storm sewer flow information provided by the applicant, staff has determined that the existing storm system located on Bering Drive does not have sufficient capacity for the proposed project. Staff believes that the existing storm system was designed to a 3-year storm event. The current design standard for City storm systems is a 10-year storm event. There are no recommendations for the existing storm sewer at this time. The area is prone to local ponding of water during heavy rain events therefore the buildings should be designed to protect the below grade portions of the structure from flooding.

m. *Street Trees:* The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in tree wells at the back of curb. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.

24. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:

a. *Construction Plans*. This permit file number, H13-040, shall be printed on all construction plans submitted to the Building Division.

b. *Americans with Disabilities Act.* The applicant shall provide appropriate access as required by the Americans with Disabilities Act (ADA).

c. *Emergency Address Card*. The project developer shall file an Emergency Address Card, Form 200-14, with the City of San Jose Police Department.

d. *Construction Conformance*. A project construction conformance review by the Planning Division is required.

e. *Lot Line Adjustment.* Prior to the issuance of a Building Permit for the new structure, the developer shall secure approval and provide proof of recordation of a Lot Line Adjustment to consolidate the existing lots.

f. *FAA Clearance Required.* The permittee shall obtain from the Federal Aviation Administration a "Determination of No Hazard to Air Navigation" for each building high point. The permittee shall abide by any and all conditions of the FAA determinations (if issued) such as height specifications, rooftop marking/lighting, construction notifications to the FAA through filing of Form 7460-2, and "No Hazard Determination" expiration date. The data on the FAA forms should be prepared by a licensed civil engineer or surveyor, with location coordinates (latitude/longitude) in NAD83 datum out to hundredths of seconds, and elevations in NAVD88 datum rounded off to the next highest foot. **This is a Federal process and make take several months; the City does not have the ability to expedite this process.**

25. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as approved and at the exact location specified by the Fire Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief. The number and distribution of fire hydrants shall be based on CFC Table C105.1 (no reduction allowed for fire flow requirement).
26. **Fire Hydrants and Driveways.** All fire hydrants shall be at least 10 feet from all driveways to the satisfaction of the Fire Chief.
27. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE-NO PARKING," shall be provided as required by the Fire Department.
28. **Emergency Vehicle Access.** Width, length, and grade of the fire apparatus access roads, streets, avenues, and the like. Every portion of all building exterior walls shall be within 150 feet of an access road. To the satisfaction of the Fire Chief, the fire access shall include the following:
    a. An approved all weather surface;
    b. Access road that are at least 20 feet wide;
    c. Dimensions with a minimum 13 feet 6 inch vertical clearance;
    d. Load bearing designs that are maintained to support the loads of fire apparatus of at least 75,000 pounds;
    e. Maintain a minimum inside turning radius of 30 feet and an outside turning radius of 50 feet;
    f. Designs with approved provisions for turning around of fire apparatus if it has dead ends and is in excess of 150 feet;
    g. Maintain a maximum grade of 15%;
    h. Provide a second point of access is required when a fire apparatus road exceeds 1,000 feet;
    i. Curbs are required to be painted red and marked as "Fire Lane - No Parking" under the following conditions: (show exact locations on plan)
    j. Roads, streets, avenues, and the like that are 20 to less than 26 feet wide measured from face-of-curb to face-of-curb shall have curbs on both sides of the road painted and marked
    k. Roads, streets, avenues, and the like that are 26 to less than 32 feet wide measured from face-of-curb to face-of-curb shall have one curb painted and marked
29. **High Rise Building Requirements.** The following requirements shall apply to high rise development:
    a. *Fire Sprinkler System.* Building(s) shall be provided with an automatic fire extinguishing system in accordance with CFC 903.2 and SJFC 17.12.630. Systems serving more than 20 heads shall be supervised by an approved central, proprietary, or remote service to the satisfaction of the Fire Chief.

b. *Fire Pump and Fire Control Rooms.* The location and access to the fire pump and fire control rooms shall be pre-planned with the Fire Department. In accordance with CFC 509.2; Approved access shall be provided and maintained for all fire protection equipment to permit immediate safe operation and maintenance of such equipment. Each building shall be equipped with its own separate fire pump and fire control rooms.

c. *Multiple Water Mains Required.* The required fire pumps shall be supplied by connections to a minimum of two water mains located in different streets. Separate supply piping shall be provided between each connection to the water main and the pumps. Secondary water supplies shall be provided for both buildings in accordance with CFC 903.3.5.2.

d. *Testing of Smoke Control Systems.* The San Jose Fire Department does not provide testing and inspection of Smoke Control systems. System must be tested and approved by a qualified 3rd party contractor.

e. *Emergency Power System.* An emergency power system shall be pre-planned with the Fire Department.

30. **General Fire Prevention Requirements.** The developer shall provide the following improvements:

a. *Fire Sprinkler System.* Building(s) shall be provided with an automatic fire extinguishing system in accordance with CFC 903.2 and SJFC 17.12.630. Systems serving more than 20 heads shall be supervised by an approved central, proprietary, or remote service to the satisfaction of the Fire Chief.

b. *Requirements for Trash Areas.* Outdoor covered areas and trash enclosures may require the sprinkler system to be extended to protect them.

c. *Fire Alarm System.* Building(s) shall be provided with an automatic fire alarm system as required by CFC 907.2 and 907.3.

d. *Standpipes Available During Construction.* All buildings under construction, three or more stories in height, shall have at least one standpipe for use during construction. Such standpipe shall be provided with fire department hose connections. Location(s) and numbers of standpipe(s) shall be reviewed and approved by the Fire Department.

e. *Elevators.* Elevators shall be in accordance with the requirements stipulated in the California Building Code Chapter 30. All buildings with one or more passenger service elevators shall be provided with not less than one medical emergency service elevator.

31. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Site Development Permit incorporated by reference in this Permit in accordance with Chapter 20.100 of the San Jose Municipal Code.

32. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning through the Sign Permit Adjustment process.

33. **Enclosures/Screening.** Utility Structures shall be enclosed or screened with fencing and/or landscaping.

34. **Trash/Recycling and Storage.** Trash and recycling enclosures shall be covered and maintained in an orderly state. No outdoor storage is permitted.

35. **Building and Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.
36. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
37. **Roof Equipment.** All roof equipment shall be screened from view.
38. **Colors and Materials**. All building colors and materials are to be those specified on the Approved Plan Set.
39. **Motorcycle Parking**. This project shall conform to the motorcycle parking requirements identified on the Zoning Ordinance, as amended. The required spaces shall be provided through a combination of dedicated spaces as shown on the plans and the use of surplus vehicular parking spaces which may serve as motorcycle parking spaces.
40. **Generators.** This permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators are to conform to the regulations of Title 20 of the Municipal Code. Generators that do not exceed noise and air standards are allowed with the issuance of a Permit Adjustment. Generators that do exceed noise and air standards require a Conditional Use Permit.
41. **Bicycle Parking Provisions.** This project shall provide a combination of short term uncovered bike parking as well as long term covered parking consistent with the requirements noted in the Zoning Ordinance.
42. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
43. **Irrigation Standards.** The applicant shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms to the Zonal Irrigation Plan in the Approved Plan Set and is consistent with the City of San José Landscape and Irrigation Guidelines. The design of the system shall be approved and stamped by a California Registered Landscape Architect.
44. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
45. **Lighting.** On-site exterior uncovered lighting shall use LED fixtures and be designed, controlled, and maintained so that no light source is visible from outside of the property in conformance with the Interim Standards for Broad-Spectrum (White) Light for Private Development.

46. **Recycling.** Scrap construction and demolition material should be recycled. Integrated Waste Management staff at (408) 277-5533 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.

47. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.

48. **Tree Removals and Replacement.** This Permit includes the removal of four ordinance-sized trees and 174 non-ordinance sized trees on-site. Required replacement trees will be planted on-site as shown on the approved landscape plan.

    a. A tree protection and landscape plan shall be included with the final construction plans submitted to the Building Division.

49. **Green Building Requirements for Tier 2 Non Residential Development (≥25,000 square feet).** This development is subject to the City's Green Building Ordinance for Private Sector New Construction. Prior to the issuance of any shell or complete building permits issued on or after September 8, 2009 for the construction of buildings approved through the scope of this permit, the applicant shall pay a Green Building Refundable Deposit applicable to the gross square footage of said buildings which are approved through this permit. The project must receive the minimum green building certification of LEED Silver. The request for refund of the Green Building Deposit together with green building certification evidence demonstrating the achievement of the green building standards indicated above shall be submitted within a year after the building permit expires or becomes final, unless a request for an extension is submitted to the Director of Planning, Building, and Code Enforcement in accordance with Section 17.84.305D of the Municipal Code.

50. **Revocation, Suspension, Modification.** This Site Development Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:

    a. A violation of any conditions of the Site Development Permit was not abated, corrected or rectified within the time specified on the notice of violation; or

    b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or

    c. The use as presently conducted creates a nuisance.

APPROVED and issued on this 8th day of January 2014.

Joseph Horwedel, Director
Planning, Building and Code Enforcement